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have a right to rely entirely. *Oyler v. Renfro*, 86 Mo. App. 321; *Ball Co. v. Lane*, 135 Mich. 275. But if the owner gives another not only the possession, but also other indicia of title—an apparent ownership—and if the purchaser knows of this apparent ownership and innocently acts upon it, the doctrine of estoppel *in pais* applies and the original owner cannot deny that the seller had title. *O'Connor v. Clark*, 170 Pa. 318; *Nixon v. Brown*, 57 N. H. 34. But in the principal case, one of the essential elements necessary to create an estoppel was lacking, for although P. entrusted the seller with possession and allowed him to renew the license in his name, there was no evidence that the buyer knew of this fact and acted upon it.

WILLS—PRESUMPTION OF UNDUE INFLUENCE ARISING FROM FIDUCIARY RELATION.—Testatrix made certain devises and bequests to the principal defendant, Dr. Dinwiddie, who was her trusted confidential adviser and practicing physician. The daughter of the testatrix contested the will on the sole ground that Dinwiddie had exercised undue influence over the testatrix. *Held*, that where a fiduciary or confidential relationship is shown to exist, the law presumes that the gift was the result of undue influence, and the burden is thrown on the recipient of the gift to show that it was not. *Burton v. Holman*, (Mo., 1921) 231 S. W. 630.

This case follows out the doctrine established in preceding Missouri decisions on the subject of undue influence. *Dausman v. Rankin*, 189 Mo. 677; *Grundmann v. Wilde*, 255 Mo. 109. But this view seems to be contrary to the great weight of authority in the United States. *Clausenius v. Clausenius*, 179 Ill. 545; *Convey v. Murphy*, 146 Ia. 154; *In re Smith's Will*, 72 N. Y. Sup. 1090; *Caughey v. Bridenbaugh*, 208 Pa. St. 414. The question of undue influence being presumed from a fiduciary or confidential relationship existing between the testator and the devisee or legatee under the will, has arisen frequently in our courts, and several recent cases have been decided contrary to the rule laid down in the principal case. In *McCune v. Reynolds*, 288 Ill. 188, the court said, "the burden rests upon the contestant to prove the charge of undue influence. This cannot be done by the establishment, alone, of a fiduciary relation between the testator and the beneficiaries * * * this does not put upon them the burden of showing an absence of fraud or undue influence." *In re Dale's Estate*, 92 Ore. 57, held that, while a confidential relation between the testator and the beneficiary was a circumstance to be taken into consideration, it did not in itself create a presumption that undue influence had been exerted. To the same effect are, *Brotherhood of R. R. Trainmen v. Van Etten*, 90 N. J. Eq. 612, and *Downey v. Guilfoile*, 93 Conn. 630. The *Downey* case is commented on in 29 YALE L. J. 133. That unnatural disposition of property does not show testamentary incapacity is held in *Whitman's Est.* (S. D. 1921) 184 N. W. 975.